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CONCORD, N.H.

1958

March 6

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

Dear Mr. Barry:

This is in response to your request of March 4, 1958, for our opinion as to whether housekeepers employed by public welfare recipients, whose wages are paid from funds included in the recipient's grants, are employees of the State or of the recipient for Social Security purposes. You advise that these housekeepers do domestic work, render incidental nursing care, are hired by, and subject to the control of the recipient.

Under the definitions contained in sections 210(k) and 218(b)(3) of the Social Security Act, an employee is described as "an individual who under the usual common law rules applicable in determining an employer-employee relationship, has the status of an employee." In view of the above, the housekeepers in question cannot be construed as State employees for Social Security purposes and the State is not required to report the wages of these individuals.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/lt